

ROKOSCH JSM

GRANDSTAFF CCJ

THOMPSON AT

CHILCOTT JC

DRISCOLL KO

PLETTENBERG (Clerk & Recorder)

Date.....September 18, 2007

Members Present.....Commissioner James Rokosch,
Commissioner Alan Thompson, Commissioner Greg Chilcott and Commissioner
Kathleen Driscoll

Minutes: Beth Perkins

The Board met with Jill Davies from Sustainable Living Systems to discuss Community Food Projects. Commissioner Chilcott was acting chair.

Jill discussed Community Food Security within four stages. Jill gave a timeline of progress for a Planning Grant from the Community Food Projects – Competitive Grants Program. She stated they will apply for what they need up to \$300,000.

Jill indicated this is a cooperative and they are currently in phase two of their four stages. Commissioner Thompson asked if individuals would be encouraged to establish their own gardens. Jill replied they encourage people to grow their own gardens; however, it is more like participating in a “Farmer’s Market” environment. Cooperatives are member only businesses. Instead of Saturday morning markets this will provide fresh local produce year round.

Commissioner Driscoll asked how the E-Coli issue will be addressed in regard to the fresh spinach and lettuce. Jill replied they take that issue in account for their water quality. This program will be directed towards the poverty stricken, senior citizens, and others in need. Jill invited the Board to participate in the program.

Commissioner Chilcott expressed his concerns regarding the local agricultural producers and the possible impacts on them which included the impact of the increased gas prices. Jill felt they would be able to maintain this local food source. She stated industrial agricultural has driven 60% of local small farmers out of business. Commissioner Driscoll asked how much of the local farmers will be able to keep by utilizing this program. Jill replied it is the idea of the program. They want to keep it local and small thus lower the price.

Commissioner Rokosch now joined the meeting.

In other business the Board met for a public hearing regarding Stevi Flats Major Subdivision. This meeting is a continuation from August 30th. Present were Planners John Lavey and Karen Hughes, owner Scott Twite, PCI Representatives Gilbert Larson and Bill Burnett.

Commissioner Rokosch opened the public meeting noting they left off at the Board deliberation at the last meeting. He noted there are additional citizens wishing to make public comment.

John gave a recap of the Planning Staff Report.

Commissioner Rokosch reopened public comment.

Richard Adland stated his concerns are the cautionary issues for the amount of water. 20 lots are a huge concern for water usage. The agricultural use on the property provided hay every year. He has further concerns about the road system. The road is in need of repair now.

Sherry Gracien stated the reason she bought there was to be out in the country. They own 5 acres. Putting 20 houses next door is too much - if they wanted to live in town, they would have bought in town. She has concerns with putting horses on two acre lots without irrigation. She is concerned about the well water. She can't afford to drill a deeper well. She is concerned about the traffic. 7 out of 10 cars going up the road are in excess of the speed limit. She would not object to 5 acre lots but cramming 20 lots in is a huge concern.

Ron Carpenter stated they have 9 acres. He utilizes ditch water for his irrigation. He has an alpaca ranch. There is a subdivision down hill from this location and the houses are not selling. One of the lots is right against his barn. He is in agreement with Sherry about the 5 acre lots and also if the subdivider would provide a bond for the adjoining landowners to re-drill everyone's well when the wells from the new lots sucked them dry.

Don Whittecar stated the aquifers for this area are 20, 40 and 60 feet. He stated the new wells will be drilled along the same line as the existing wells in the area. The sewage runoff from the drain fields will be leaching sewage 8 feet below surface. The south side of Pine Hollow Road has drastically declined. It is in need of repair now. What will be done when 20 families move in with school children that ride the bus? He stated this is a safety issue that needs to be addressed.

Pauline Carpenter stated she has an alpaca ranch. She stated if the houses are built next to her barn it will be like living in town. She is concerned how it will affect her animals. They do not know the type of housing proposed or the amount of children that will live there.

Sam Sanders stated his concerns are the lot density in the rural area, the water and septic issues. He understands they can't prevent growth. But by putting in 20 lots and draining the water from the existing landowners, the county is putting hardship on the existing landowners.

Dan Gracien stated he has a question for the Board. About 1 of 3 houses is up for sale now. How do they expect to sell 20 houses when other people have had their houses on the market for years? He is concerned with the children playing in the irrigation ditch. He has a problem with his son playing in it. It will be a huge problem with the children. He has already had to fish out a dog under the bridge. What will happen with the children? He is in agreement with the other neighbors about having 5 acre lots.

Richard Laubach stated he has had some time to gather additional facts regarding the water. He presented the Board with information in several documents. He stated they show the drought conditions with the current water levels. The developers stated these lots will not impact the water level for the existing landowners. The Developer shouldn't have a problem putting up a bond to re-drill the existing wells if the water level goes down. He expressed his concerns with the road condition. He addressed the agricultural use of the land that was once an alfalfa patch and hay. He has worked his entire life to live in a rural area. He stated he has collected 24 signatures of people living in the neighborhood who are against this development. He is not against the development, but wants 5 acre developments which are the same as everyone else. Zoning District #19, defines residential lots as 5 to 10 acres in size (for open rural developments). Melody Meadows is on the plat and the Vista subdivision is 5 to 10 acre lots. There are a few 4 acre lots in the area. He explained there was no community involvement, the neighbors were not informed or asked for their opinion.

Commissioner Rokosch called for further comments, hearing none. He requested a rebuttal from the developer.

Gilbert Larson stated he would like to respond to the comments from the Board and the public.

Commissioner Rokosch closed public comment. He opened Board deliberation.

Gilbert stated one of the things to look at was the design, particularly the ability to walk through the development. Their proposal is to continue the public access and utility easement through lots 1 and 4. They would construct a 12 foot wide paved area. Lots 2 and 3 would use the public access as a driveway. They would keep the covered bus stop on lot 20.

Commissioner Rokosch stated he and Commissioner Driscoll have met with the School Transportation Committee and discussed the need for the pick-up and drop-off of school children. He stated there was a motion made at that Transportation meeting showing their preference of a bus route with the right side of the bus to the road with a turn-out. If the

children had to cross the road to load the bus, they would prefer a shelter. He asked if the developer has had contact with the school district. Gilbert replied he had discussed the turn-out with the school district but was told they didn't want a turn-out. That was the understanding at the time. They agreed to build a shelter; they will build a turn-out if the school district wants one.

Gilbert stated they share the common goal of making this a safe and livable environment.

Commissioner Rokosch stated the sidewalks were a concern in the last meeting. He requested Gilbert to address the issue.

Gilbert stated their proposal is to have the walkway between Lots 1 through 4 to the shelter. They do not have a walkway to the road. It is a 20 foot easement with 12 feet of pavement. With the 12 foot width, it will provide safe travel for pedestrians and vehicles. John stated that by subdivision regulation, it would be considered a road and would need to be brought up to county standard. Gilbert replied there would be no access strips. John asked what would prevent lot owners on lot 1 from accessing lot 4. Gilbert replied they could narrow the width. Brief discussion followed. Commissioner Rokosch stated they could reduce the density to address these concerns. He does not believe this would properly address the safety of the children. Commissioner Driscoll asked if they considered the 5 acre lot density. Gilbert replied yes, they looked at both bigger and smaller lots. They researched the lot size for the area. Commissioner Driscoll asked if the '1 per 2 initiative' had not passed, would they have looked at smaller lots. Gilbert replied yes, they would have looked at smaller lots.

Gilbert stated the developer is willing to contribute \$500 per lot for the Fire District and the Sheriff's Office. As for dust abatement, they are planning to pave the roads. Gilbert stated they are not proposing the suggested \$500 per lot for the Open Lands Board. Commissioner Rokosch asked about the school contribution. Gilbert replied they had contacted the school and the school was not requiring a contribution. They were looking forward to new students to keep the State and Federal funding. Commissioner Rokosch stated that depends on who you talk to as the Stevensville School District has a new superintendent.

Gilbert stated the last item is the water and sewer. He stated they can rely on the State regulations. They have to show (when they build the drain fields) they meet the State requirements. With a one acre lot, they can keep these separations. They are all drawing out of the same aquifer. With a foot of water a year, you get 300,000 gallons of water each year. Some of it goes into the plants, some goes into the aquifer. They determined a one acre lot is enough. With a two acre lot, they will be able to provide individual wells. In terms of providing bonds for the wells, wells fail for various reasons. A fluctuation of 4 feet is not unheard of. He stated they exceeded the requirements for the wells. They are willing to place a statement on the plat in regards to a RSID in the future. They have agreed to provide a bus stop and a turn around, double seal the wells, relocate a fence, have the system at the existing house replaced by a modern system, a RSID waiver on the plat, and they have addressed the contributions and extended the paved walkway through

the site. They believe they have met the requests of the Board. Gilbert included another option for the walkway would be to construct some bollards to prevent people from driving through, but it would be a knockdown for emergency vehicles.

Karen stated it will probably technically work.

Commissioner Chilcott asked the contribution to the school district. Scott replied he will be willing to do \$500 per lot previous at final plat.

Commissioner Driscoll asked how the developer would mitigate the neighbor's feelings about the wells. Gilbert replied to be honest, nothing. The water issue is one that has been struggled with in Montana. It has been studied very intently to address the issues. When they put a regulation in place, it should address the issue. It should balance out in time. They are looking at being conservative with wells. Aquifers are difficult as to it being wide spread. They are reasonably assured the aquifer will bring sufficient water. It is a stream flowing under ground. Commissioner Driscoll asked are you talking about the 60 foot well. Gilbert replied yes. The underlying aquifer is a confined aquifer. That is the source they would be tapping into. Well drillers recommend drilling wells past the clay layers.

Don Whittecar asked who the people were from the State who are doing this assessment. He stated his concern is they think these conditions are normal, but they are in drought conditions. He has never had problems with his well. He thinks it is reasonable to ask for a bond should building these 20 lots affect his well level.

Commissioner Rokosch asked if Gilbert needs to obtain an exemption from DEQ. Gilbert replied no. Commissioner Rokosch stated looking at the clay layer clearly shows there is not a complete separation. Gilbert replied they cannot do that without Board approval. What has been completed is the site evaluation with the Health Department. Commissioner Rokosch asked if they are in process of the non-degradation permit. Gilbert replied yes pending preliminary plat approval.

Commissioner Rokosch asked about the aquifer recharge during the severe drought status. Karen replied to her understanding she has not heard of the general standard that is being utilized and this is a question to be posed to the Environmental Health Department. Gilbert replied for recharge and precipitation, they are lucky. DEQ tends to be a very conservative group. It is a static standard but conservative in regards to worse case scenario. Gilbert stated they would be willing to punch wells down to the third aquifer for the lot, meaning the wells would be 120 to 150 feet deep.

Commissioner Rokosch stated community water systems would ensure the water system would indeed address the water concern. Ravalli County is a closed basin. Water rights, value of water is more important than the land. He felt it would be more secure with a community system. If the water is good for drinking, it would be good for adjacent well users. There is no monitoring required for individual wells. Commissioner Rokosch also questioned the usage of a community water district. Gilbert replied they would like to use

one, but regarding this project, Stevensville does not have the ability to serve outside their city limits. For this size of lot development it is not feasible to look at a community water district. Commissioner Rokosch replied according to DNRC it is feasible. Commissioner Driscoll stated growth affects everyone. Commissioner Rokosch stated they have imposed covenants to address the density.

Commissioner Chilcott stated this is the moment to point out that Ravalli County is going through a countywide process of zoning. The process is big. Zoning affects us, we need to be involved. We all need to step up and participate in this process. He also stated DEQ is strict with their decisions. The longer you sit here, the more conflicting information you get. It is difficult to make assumptions without the data to support them.

Commissioner Rokosch stated there are a couple of things that need to be pointed out. The local data is not available. It will be in the future. Any suggestion that the DEQ has much better data than our own Environmental Health Department is false. Our current Environmental Director previously worked for the DEQ. We are trying to do everything we can to obtain that information. We are bound by the constraints of the law. The law may not protect the Public Health and Safety of water usage. He hopes this provides some basis for the decisions the Board makes.

Don Whittecar quoted a Supreme Court Justice. He explained the density issue. He stated he chose to go into a 5 acre increment. His neighbors chose to go into no less than 5 acre increments.

Commissioner Rokosch stated to his understanding, the deeper aquifers run perpendicular.

Commissioner Driscoll stated if they are not going to make this a central system, then why not make the lots larger, i.e., 5 acres as that would address many of the issues they are trying to resolve. Gilbert replied he understood her question. They have mitigated this issue by punching the wells down to the third aquifer.

Commissioner Rokosch asked if any reduction in density would be considered. Gilbert replied no.

Richard Laubach presented the Board with MCA code Section 85-2-902, regarding the water issues to be deliberated. He believes the citizens have a right to petition for a community water district. Zoning District # 19 specifies 5 acre lots. He believes it is the citizens right to petition. Commissioner Rokosch asked for a reply from the Planning Department. Karen stated it would be a legal question. Commissioner Driscoll stated a quicker way is to be involved with Countywide Zoning. Commissioner Chilcott stated he is not an attorney but there is a question of making a new law and going back and find someone guilty of breaking it. It is like a speed limit, if you get pulled over for doing 70 in a 75, you are within the law. This is a venue where we can take control. Commissioner Driscoll stated it is sad as a citizen to sit back and watch the subdivisions come into the

valley; however we need zoning in place to address these issues. There are laws and regulations in place that help us to make these decisions.

Commissioner Rokosch requested a five minute recess. He stated after the recess, the Board will review the six criteria.

Commissioner Rokosch called the meeting back to order. He stated the deadline for this decision is October 3rd. There is some data for drought severity that has to be considered. Commissioner Grandstaff asked about the drought season and if there is a drought committee. Commissioner Chilcott replied they did set up a drought committee but it failed. Commissioner Thompson stated the documents are dated from September, July and August. The drought in Montana was a couple of years ago in the east but we were wet here. These show extreme drought at the moment. Commissioner Grandstaff reiterated her question. Commissioner Thompson replied he does not know. Commissioner Grandstaff suggested it may be addressed with the review of the six criteria. Commissioner Driscoll stated her concern is with the neighbor with the barn adjacent to the lot. There is going to be a clash there with residential land next to agricultural land. Gilbert replied there is a minimum of 50 feet in between houses.

The Commissioners began deliberation of the six criteria for subdivision review as follows.

Criteria One: Effects on Agriculture: Commissioner Grandstaff stated under the summary of probable impacts, it is stated this property has not been used for previous agricultural production. She believes haying is agricultural production. Commissioner Rokosch stated there are limited water rights from the ditch and he has asked for a potential change point of diversion for purchasing additional water rights. Gilbert replied the homeowners could buy additional water out of the ditch on a yearly basis. They are not intending to purchase additional rights. Bill from PCI stated he did research those rights. The current owners do not have rights; therefore they cannot purchase additional rights. Commissioner Chilcott stated this property will be pretty light for agricultural use. As the county tries to continue the promotion of agricultural heritage, they should look at the agricultural use of the irrigation ditch. Commissioner Driscoll stated there is also an issue of recharge. Commissioner Rokosch stated there is a statement from Commissioner Thompson to take into effect where he suggested limited agricultural use (gardens) on the lots. There are 7 acres of potential agriculture in the absence of water. Commissioner Thompson stated the criteria states prime farm land and farm land of importance. He would hesitate telling a farmer his land is prime land and therefore can't subdivide his land and retire. There are times when land is used for minimal activity. Subdividing can provide agricultural use such as a small orchard. This states it has not been used for agricultural purposes however haying is an agricultural use.

Commissioner Grandstaff stated this is land speculation. This will remove 88% of the land out of agricultural use permanently. Commissioner Thompson stated the Board can 'argue this criterion until the cows come home'. He proposed they vote and continue on to the next criterion.

Commissioner Rokosch called for a vote regarding significant impacts on the effects of agricultural. Commissioner Rokosch, Commissioner Grandstaff and Commissioner Driscoll voted 'aye'. Commissioner Thompson and Commissioner Chilcott voted 'nay'.

Commissioner Rokosch requested a statement of preferred mitigation. Gilbert stated these lots can still have agricultural producing gardens. He believes these lots can still have the same agricultural uses as before. Commissioner Driscoll asked if Gilbert believes the 7 inches of irrigation water will be efficient. Gilbert replied since the sale of the property, there has been no agricultural use. Commissioner Rokosch asked if there is any argument if one acre of these lots or road would be converted from agricultural use. Gilbert replied no.

Commissioner Rokosch asked if there would be limitation of well water usage for irrigation in the covenants. Gilbert replied yes, ½ acre of the lots will have irrigation potential. Commissioner Rokosch asked if 15 of the lots will be limited. Gilbert replied you could include all the lots. There is an option for lots 16 through 20 to purchase additional water rights. 17 acres could have agricultural ability. Gilbert stated there are some things that do not require irrigation. Certain trees, wildflowers and shrubs do not require irrigation. Commissioner Chilcott stated the question asked is if they are willing to mitigate (the perception by some Board Members) the loss of agricultural land. Gilbert stated they did offer mitigation for the loss. The Developer, Scott Twite then stated he would offer \$250 per lot to the Open Lands Board. Bill from PCI stated this is not agricultural land of statewide use. **He would offer \$250 per lot to mitigate perceived loss of agricultural land. Commissioner Rokosch requested a show of hands in agreement to the mitigation. Commissioner Chilcott requested any animals be fenced. The Board voted unanimous as non-significant effects on agriculture as mitigated by the subdivider.**

Criteria Two: Effects on Agricultural Water User Facilities. Commissioner Rokosch read the proposed mitigation. Commissioner Chilcott stated they have properly mitigated the effects. Commissioner Grandstaff questioned the use of water for landscaping. Commissioner Thompson stated they do have an agreement with the ditch rider. Board discussion continued regarding use. Commissioner Rokosch requested the notification of maintenance to include direct physical contact, the operation of excavation equipment and open burning. Commissioner Rokosch requested a show of hands of as current mitigated are the impacts still significant. **The Board voted unanimous as non-significant effects on agricultural water users as mitigated.**

Criteria Three: Effects on Local Services: Commissioner Rokosch stated he feels the school contribution is insufficient for the impacts created. The average cost is \$7,287 per student for Stevensville Elementary School. It does not include special education. Commissioner Driscoll addressed the drop in the student capacity. The Board discussed the costs of students, federal and state contributions and lack of first year contributions from the state. Commissioner Rokosch stated this was mitigated by the walkways, bus

shelter and consultation of the bus turnout. There would be no walkway available on Dietz road. Commissioner Rokosch stated there was mitigation for contributions of \$500 per lot to the School District, Fire District and Sheriff's Office. **Commissioner Chilcott and Commissioner Thompson voted significant. Commissioner Rokosch, Commissioner Grandstaff and Commissioner Driscoll voted non-significant.**

Criteria Four: Effects on Natural Environment: Commissioner Rokosch stated mitigation could include not allowing any woodstoves. He stated he still has concerns regarding ground water quantity including aquifers. Board deliberation continued on the same subjects as previously discussed. Commissioner Rokosch asked for mitigation to include double-sealing the wells and that they should be drilled to 150 feet.

Commissioner Rokosch then left the meeting due to another appointment.

Commissioner Thompson stated he has never heard the comments in regard to ground water before. He suggested a draw-down test but has never heard of a change in direction of an aquifer. The aquifer in this valley flows in a north westerly manner. The primary source of the aquifer comes from the Sapphire Range. If there is a drought, he asked how we get the water down to a 120 feet aquifer. He heard in the previous meeting that Charlie Walker had to re-drill his well. And the Board has heard the residents in the area express concern with their wells. He also noted there has been talk today of other subdivisions going into this area. One subdivision is to the south of this property. He stated he did not believe it would affect the wells, but he can not prove that drilling 20 new wells would not have an impact. He stated they do not have the data to back that kind of assertion up

Now acting as Chair, Commissioner Grandstaff asked if the issues were addressed. Commissioner Chilcott stated his concern for the water. He does not believe it will affect the sewer issue. Gilbert stated he has met the regulation requirements. They have done the testing and depth for the drought concerns. He stated everything came out great.

Commissioner Driscoll clarified the Board is reviewing the criteria in order for the applicant to mitigate any issues. Commissioner Thompson stated Gilbert has not shown him the amount of draw down. He stated Gilbert stated they have done a draw down test but he has not seen the results. Gilbert offered to double seal the wells and drill them down to 120 feet. Discussion followed regarding the difference between requested information and requirements.

Commissioner Grandstaff stated the Board has a willingness to mitigate but they do not have a direction to go. Commissioner Chilcott suggested they include a condition of approval which would require draw down test being submitted to Environmental Health. Commissioner Grandstaff stated DEQ approval should mitigate this issue.

Commissioner Grandstaff requested a vote.

Commissioner Chilcott and Commissioner Thompson voted non-significant as mitigated. Commissioner Grandstaff and Commissioner Driscoll voted significant as mitigated.

Criteria Five: Effects on Wildlife and Wildlife habitat: Commissioner Thompson stated the fencing of dogs and animals has been mitigated. **All voted non-significant as mitigated.**

Criteria Six: Effects on Public Health and Safety: Commissioner Chilcott expressed his concerns regarding the road issue. He stated it is in poor shape. Commissioner Chilcott stated the effects of the sewage have been mitigated. Gilbert stated they have done soil analysis for ground water monitoring. Commissioner Grandstaff asked if they are considering a level two treatment system. Gilbert stated they were not. Gilbert explained the level of treatment they will be using. Commissioner Grandstaff asked what the cumulative impact of the 19 new units would be. Gilbert replied they have to look at the base and measure the amount of nitrates. They have to look at the background and what it would increase. He felt it was not significant. Commissioner Grandstaff asked about the dam inundation area. Commissioner Thompson stated it was mitigated with the basic level of ground floor which was to be two feet above existing elevation. Commissioner Grandstaff asked what about basements. Gilbert replied there could be any event where water would flow. They could mitigate by raising the houses by grade. **All voted non-significant as mitigated.**

Commissioner Grandstaff requested that Planning Staff read the mitigation issues that have been agreed to. John read the items:

- A statement is included in the covenants that require wells to be dug to a depth of 120 feet and the wells are double sealed to 18 feet.
- A statement is included in the covenants prohibiting the use of wood stoves.
- The notification of irrigation facilities and easements statement include a notification about potential noises associated with the maintenance of irrigation facilities, such as the operation of heavy machinery, and that the burning of vegetation along ditches may occur from time to time.
- The applicant shall install knock-down bollards within the Private Access and Utility Easement between Lots 2 and 3.
- That, if during the final survey of the subdivision, it is discovered the existing fence abutting Mr. Richard Laubach's property is entirely or in part inside the boundaries of the subject property, the subdivider shall move, at his own expense, the fence to be entirely on Mr. Laubach's property.
- A school bus shelter shall be provided for on Lot 20.
- The subdivider shall provide for a school bus turnout within the subject property adjacent to Pine Hollow Road, or that the subdivider shall provide documentation from the Stevensville School District stating that they do not require a turnout.
- Amending condition 22 to allow the subdivider to provide documentation from the Ravalli County Environmental Health Department that shows the existing septic system meets current standards.

- The subdivider shall contribute \$250-per-lot for 19 lots to the Ravalli County Treasurer's Office to be deposited into the account for the Open Lands Board prior to final plat approval, for a total of \$4,750.
- Amending Condition 17 to state the subdivider shall contribute \$500-per-lot for 19 lots to the Ravalli County Treasurer's Office to be deposited into account for the Sheriff's Office prior to final plat approval, for a total of \$9,500.
- Amending Condition 6 to state that the subdivider shall submit a letter or receipt from the Stevensville School District stating that they have received a \$500-per-lot contribution for 19 lots prior to final plat approval, for a total of \$9,500.
- Amending Condition 5 to state that the \$500 contribution in lieu of water supply for the fire district be assessed on 19 of the 20 lots, for a total of \$9,500.

Commissioner Chilcott made a motion to approve Stevi Flats subdivision based on findings of fact and conclusions of law in the Planning Staff report and mitigation results of today. Commissioner Thompson seconded the motion, all voted 'aye'.

In other business the Board met with Planning Director Karen Hughes and Personnel Director Skip Rosenthal in regard to communication and procedures. Commissioner Rokosch was absent for the first portion of this meeting due to a speaking engagement for the Stevensville Main Street Association. Karen indicated this discussion is being held in an informal manner but due to some personnel issues it was agreed to hold a closed door meeting as motioned by Commissioner Driscoll and seconded by Commissioner Grandstaff with all voting "aye" under 2-3-203 (4-B) MCA